

## GROUND FOR BELIEF

### The Witnesses – Individual Electors

21. This group comprise witnesses almost all of whom complained to Elections Canada of receiving a telephone call falsely claiming to be from Elections Canada, informing them that their polling station had been moved. I have interviewed each of these individuals by phone or in person as described below.

#### Susan Campbell

22. On May 5, 2011 I contacted elector Susan Campbell by telephone and on May 19, 2011 I interviewed her at Guelph. She told me that the call was recorded on her voicemail at 10:15 on May 2, 2011. Campbell confirmed to me that the Strommer recording (see below) sounds just like the call she received.
23. Campbell recorded the number calling as 450-760-7746 from her call display. Campbell described the recording as a female voice in English telling her that her polling station was changed, due to high voter turnout. The call gave an Elections Canada number, 1-800-434-4456, to call back for questions. She attempted to call the number but found it was not in service. Campbell voted at the polling location assigned to her on her VIC. Campbell was incensed that someone would deliberately attempt to confuse voters and undermine democracy in this fashion. Campbell described the call as a direct attempt to influence her vote by confusing her.
24. The message had said her poll was switched to the Old Quebec Street Mall. She described this as a very inconvenient location as it was downtown, with very limited parking, and the streets around it were under reconstruction, causing traffic problems.
25. Campbell reported that she had not disclosed voting intention to pollster phoning earlier in the election campaign, but noted that her husband, John, was the Green Party candidate and they had a Green Party lawn sign, so their voting intention could be easily determined.
26. Campbell's assigned polling site was at the Saint Rene Goupil School, 221 Scotalde Drive, Guelph. This is approximately 1.4 Kilometres from his residence, when measured on Google Maps, whereas the Old Quebec Street Mall is 2.6 Kilometres from her residence.

#### Ella & Richard Kilpatrick

27. On May 5, 2011 I contacted elector Ella and Richard Kilpatrick by telephone. On May 19, 2011 I interviewed Richard Kilpatrick at Guelph. Richard Kilpatrick told me that the call was recorded on their voicemail at 10:07 on May 2, 2011. Richard described the call as an automated, bilingual call, with a female voice. The call sounded professional but with poor recording quality. The message said it was from Elections Canada. The gist of the message was that due to high voter turnout, her polling station had been moved to Old Quebec Street Mall. The recording provided a telephone number to call in the event of questions.
28. Richard confirmed to me that the Strommer recording (see below) sounded like the call he received. Richard also confirmed that the originating number for the phone call was recorded on his call display as 450-760-7746 and that the 1-800 number given for Elections Canada was 1-800-434-4456.
29. Richard found the call believable. He contacted his adult son, who lives with them, and told him the polling station had been switched to Old Quebec Street Mall, as his son was going to vote on the way home from work. A neighbour "Dave" subsequently told Kilpatrick the call was bogus. Richard Kilpatrick said his ability to vote would have been impeded by the call, had their neighbour not taken the time to tell them the call was bogus.
30. Richard Kilpatrick said that earlier in the election campaign he had received a call from a live caller, calling on behalf of the Liberal campaign. The call was made to the same residential phone

WQ

WQ

number which received the bogus call of May 2. The caller asked if he would consider voting for the local Liberal candidate. He said no.

31. The Kilpatrick's assigned polling site was at the Elliott Home senior's complex at 170 Metcalfe Street, Guelph (The Ellington, 168 Metcalfe). Elliott Home is approximately 600 meters from the Kilpatrick residence, when measured on Google Maps, whereas the Old Quebec Street Mall is 1.6 Kilometres from their residence.

#### **Shannon Testart & Kevin Carr**

32. On May 5, 2011 I also contacted elector Shannon Testart by telephone and on May 19, 2011 I interviewed Shannon Testart and her spouse, Kevin Carr, at Guelph. Testart reported that she received a bogus call on her residential phone, moving her polling location. The call was received around 10:00 on the morning of Election Day, as voicemail. Testart did not hear the message until the end of the afternoon, after work. The call was an automated call, with a female voice. The message said it was from Elections Canada. The gist of the message was that due to high voter turnout, her polling station had been moved to Old Quebec Street Mall. The recording provided a telephone number to call in the event of questions. Testart obtained the number the call was made from her call display. She and Kevin Carr subsequently emailed that number 450-760-7746 and the 1-800-434-4456 to themselves for the purpose of creating a record.

33. Testart and Carr went together to the Old Quebec Street Mall in order to vote. On arriving there the Elections Canada official greeting electors noted their VIC information and told them that the phone call telling them to come to the Mall was false. The official told Testart and Carr that they had to go to the polling location named on their VIC to vote. Both went to their assigned polling location and voted. Kevin Carr said that had they been relying on public transit to get to their polling location from the Old Quebec Street Mall they may not have made it in time to vote.

34. Testart said that earlier in the election campaign she had received a call from a live caller, calling on behalf of the Conservative campaign. The call was made to the same residential phone number which received the bogus call of May 2. The caller asked if she would consider voting for Marty Burke, the local Conservative candidate. She said no. Kevin Carr received 2 calls asking for his voting intention. Both were made to their residential number. The Conservative caller asked if he would consider voting for Marty Burke, the local Conservative candidate. Carr said no. The Liberal caller asked if he would consider voting for the local Liberal candidate. Carr said no.

35. On May 8, 2011 Testart forwarded the phone message, which was still on her voice mail, to me. The call that I received is incomplete, but it states:

*This is an automated message from Elections Canada. Due to a projected increase in poll turnout your voting location has been changed. Your new voting location is at the Old Quebec Street mall at 55 Wyndham Street North. Once again, your new poll location is at the Old Quebec Street Mall at 55 Wyndham Street North. If you have any questions please call our hotline at 1-800-434-4456. We apologize for any inconvenience that this may cause.*

The call repeated this message in French. Testart confirmed to me that the Strommer recording (see below) sounds just like the call she received and forwarded to me.

36. Testart and Carr's assigned polling site was at St. James Catholic School. This is approximately 950 meters from their residence, when measured on Google Maps, whereas the Old Quebec Street Mall is 12 Kilometres from their residence.

#### **Jason Newberry - Andrew Taylor**

37. On May 6, 2011 I contacted elector Jason Newberry by telephone and on May 19, 2011 I interviewed Jason Newberry at Guelph. Newberry reported that he received the call early on May 2, 2011. The message said it was from Elections Canada and that due to high voter turnout his polling station was being moved to Old Quebec Street Mall. The call was from 450-760-7746, which he knew from call display.

W

APR 29 2011

- 7
38. Newberry no longer has a record of this number, but 450-760-7746 was the number Elections Canada inquiry staff member Christine Cantin recorded as coming from Newberry when he originally phoned Elections Canada to complain of the call, at 12:30 hours on May 2, 2011.
  39. Newberry learned the call was a hoax from his business partner, Andrew Taylor. Newberry called back the 1-800 number provided but there was an out of service or similar message. Newberry and his wife had already voted at the advance polls, so the call did not directly affect his ability to vote. He did say that the call struck him as very strange and that it did not seem reasonable that Elections Canada would move a poll location like that at the last minute.
  40. During the election campaign Newberry had indicated on his Face book page that he would not be voting Conservative. He also recalled receiving a call from a live caller, who said she represented the Conservative Party, who asked him if they would get his vote. He responded something to the effect "not in a million years". The caller then ended the call. He received 'robocalls' from the Liberal Party candidate, but none of these asked if they could count on his support. The Conservative call about his voting intention, the Liberal 'robocall' and the bogus call moving his polling location were all received on his home phone.
  41. Newberry confirmed to me that the Strommer recording (see below) sounds just like the call he received.
  42. Newberry's assigned polling site was at the Priory Park Baptist Church, 8 Torch Lane, Guelph. This is approximately 900 meters from his residence, when measured on Google Maps, whereas the Old Quebec Street Mall is 5.9 Kilometres from his residence.
  43. On May 6, 2011 I contacted elector Andrew Taylor by telephone and on May 18, 2011 I interviewed Andrew Taylor at Guelph. Taylor reported that the call was received around 10:00 on the morning of Election Day. The call was an automated call, with possibly a female voice. The message said it was from Elections Canada. The gist of the message was that due to high voter turnout, his polling station had been moved to Old Quebec Street Mall. The recording provided a telephone number to call in the event of questions. He did not call the 1-800 number. He recorded the number as 1-800-434-4456 in a notebook. He also recorded the number that called his residence as 450-760-7746, based on his home phone's call display function.
  44. Taylor confirmed to me that the Strommer recording (see below) sounds like the call he received.
  45. Taylor thought the call was unusual, and that Elections Canada would not switch polling locations in that fashion. He called Elections Canada and confirmed no poll locations had been changed in this manner. Taylor said that early in the election a live female caller, calling on behalf of either the Conservative Party or the Conservative candidate in Guelph, called the Taylor house and asked him if he would consider voting for the Conservative candidate. He responded no. Both the Conservative polling call early in the election and the bogus call moving his polling location were made to his residence phone.
  46. Taylor's assigned polling site was at the Kortright Public School, 23 Ptarmigan Drive, Guelph. This is approximately 900 meters from his residence, when measured on Google Maps, whereas the Old Quebec Street Mall is 8.2 Kilometres from his residence.

#### Eleanor & Don Ewing

47. On May 6, 2011 I contacted elector Eleanor Ewing by telephone and on May 18, 2011 I interviewed Eleanor and Don Ewing at Guelph. Ewing, who is a senior, reported that the call was received at 10:15 or 10:30 on the morning of Election Day. The call was an automated call, with possibly a male voice. The message said it was from Elections Canada, and that due to a high voter turnout Elections Canada was moving her polling station to Old Quebec Street Mall. Ewing called her son in Toronto. Her son, whom Ewing called, determined the call was not from Elections Canada and that her poll location had not changed. Both Mr. and Mrs Ewing had voted earlier in the election campaign so their ability to vote was not affected by the call.

WB

an  
HJM  
21

48. The Ewing's assigned polling site was at Harcourt Church 87 Dean Avenue, Guelph. This is approximately 1.2 Kilometres from their residence, when measured on Google Maps, whereas the Old Quebec Street Mall is 2.7 Kilometres from his residence.
49. Eleanor Ewing had not indicated any party preference during the election. Ewing was concerned that the call victimized other seniors.

### Judith Strommer

50. On May 13, 2011 I received an email complaint from Judith Strommer. I interviewed Judith Strommer at Guelph on May 20, 2011. In her email Strommer also forwarded to me the message left on her phone on May 2 that directed her to the wrong polling station. Strommer explained that their Rogers phone plan included a facility for voicemails received by phone to be transferred to her computer, which saves the voicemail as an audio file and generates an email message advising Strommer of the voicemail receipt. Consequently she was able to forward me a file and the email recording the voicemail.
51. Strommer's attachment indicated the voicemail was received at 10:13 hours on May 2, 2011 and was a 63 second voicemail from number 450-760-7746. The message was identical to that forwarded to me by Shannon Testart. The English portion of the message was as follows:

*This is an automated message from Elections Canada. Due to a projected increase in poll turnout your voting location has been changed. Your new voting location is at the Old Quebec Street mall at 55 Wyndham Street North. Once again, your new poll location is at the Old Quebec Street Mall at 55 Wyndham Street North. If you have any questions please call our hotline at 1-800-434-4456. We apologize for any inconvenience that this may cause.*

The call repeated this message in French.

52. The English message is comprehensible, with a scratchiness to it. Although the French message was generally comprehensible it was of a poorer sound quality than the English.
53. Strommer said a pollster for the Conservative candidate Marty Burke called earlier in the election, asking her voting intention. She told the pollster that it was not Marty Burke. Both the polling question and the bogus call of May 2 were made to her residence phone.
54. Strommer had voted in the Advanced Polls, so the bogus call did not affect her ability to vote. The Strommers' assigned polling site was at the Three Willows United Church 577 Willow Road, Guelph. This is approximately 300 meters from his residence, when measured on Google Maps, whereas the Old Quebec Street Mall is 4.7 Kilometres from her residence.

### Other Guelph Witnesses

55. On May 6, 2011 I contacted elector Tom Deligiannis by telephone. He reported receiving a recorded call, possibly a male voice, providing a bilingual message that the call was from Elections Canada. The call notified him that due to high voter turnout his poll had been switched to Old Quebec Street location. Deligiannis did not check for call display. Deligiannis is not a member of any party, but he had answered a number of phone polls in the campaign indicating he would vote Liberal.
56. On May 9, 2011 elector Len Zaifman responded to my questions by email. Zaifman reported that the call was received at 10:08 on the morning of Election Day from number 450-760-7746, as recorded on his answering machine. The call was an automated call, with what he thought was a synthesized voice. The message said it was from Elections Canada, moving his polling station to Old Quebec Street Mall. The call provided a number, 1-800-434-4456, to call if the elector had further questions. Zaifman had not indicated any party preference during the election.
57. Linda Payne, did not leave a phone number or address. Payne's original complaint to Elections Canada advised that she had received a morning call on May 2, 2011 that her polling station had been changed. She reported the call as from 1-450-760-7746. On June 6, 2011 I obtained Payne's

JB

ap

HJM  
23

address and phoned her. She recounted an automated call in the morning, reporting her polling station had been moved to Old Quebec Street Mall. She did not believe the call as she had heard a media report from May 1 that such calls might be made. Payne said she had not displayed any voting intention.

58. Payne's assigned polling site was at the Best Western Royal Brock Hotel, 716 Gordon Street, Guelph. This is approximately 3.8 kilometres from her residence, when measured on Google Maps, whereas the Old Quebec Street Mall is 6.9 Kilometres from her residence.
59. The name of one elector who complained to Elections Canada on May 2, 2011 was not recorded. This individual said he had received a recorded call telling him or her not to go to his assigned polling station as it was too busy. The call was from 450-760-7746.
60. A complaint was received from Philip Zacariah of the Green party EDA for Guelph, on May 2, 2011, reporting that the Green campaign office had received 7 complaints from supporters complaining of an automated phone call from Elections Canada saying that their polling station had been moved. His complainants noted the call was from 450-760-7746. I have twice contacted Zacariah and asked him for the contact information for his 7 complainants. He said he would get their permission to disclose that first and respond to me.
61. On May 16, 2011 Ben Jokela responded to my query of Philip Zacariah. Jokela reported having been phoned at 10:11 hours on May 2, 2011. A recorded voice claimed to be calling on behalf of Elections Canada. The recording said that due to a higher than expected voter turnout or volume his polling station had been changed to the Old Quebec Street Mall. In fact, Jokela had just returned to his residence after having voted at his assigned polling station at the Arkell Bible Chapel. The caller identification on Jokela's phone indicated the call was from number 450-760-7746. Jokela had indicated late in the election, to a call from a Conservative party caller, that he would not be voting Conservative.
62. Jokela's assigned polling site was at Arkell Bible Chapel, 39 Arkell Road, Guelph. This is approximately 2.4 kilometres from his residence, when measured on Google Maps, whereas the Old Quebec Street Mall is 7.9 kilometres from his residence.
63. While in Guelph to interview witnesses I also learned of 2 additional call recipients, Fern Rooke and Joyce Keir, whom I subsequently spoke with by telephone. Rooke reported receiving the bogus call at either 9:55 or 10:05 on the morning of May 2, 2011. She described the call as per other witnesses above. She was upset by the call, but walked to her polling station to see what the problem was. She found she was able to vote and did so. Rooke reported being polled by 3 parties prior to Election Day and that she told both the Conservative and Liberal Party callers that they would not be getting her vote. These calls came to the same residential number as the bogus call of May 2, 2011.
64. The Rooke's assigned polling site was at the Harcourt Church 87 Dean Avenue, Guelph. This is approximately 1.4 Kilometres from their residence, when measured on Google Maps, whereas the Old Quebec Street Mall is 3.5 Kilometres from her residence.
65. Joyce Keir had written a letter of complaint, dated May 5, 2011, which she gave to the Returning Officer, Anne Budra, who was a social acquaintance and which Budra had given to me (see below). Keir confirmed the letter as written by her. She reported receiving the bogus call at 10:09 on May 2, 2011. She described the call as per other witnesses above. Keir's voting intention could be determined by a Liberal campaign sign on her lawn.
66. The Keir's assigned polling site was at the Prior Park Baptist Church, 8 Torch Lane, Guelph. This is approximately 1 kilometre from their residence, when measured on Google Maps, whereas the Old Quebec Street Mall is 3.9 kilometres from her residence.
67. On May 27, 2011 I spoke with Dave Hudson, a Librarian at the University of Guelph, by phone. Hudson had been interviewed by the CBC radio show *The Current*, broadcast May 11, 2011 during which a recording of the voicemail message from Hudson's phone, moving the polling station to the Old Quebec Street mall was played. Hudson advised me that he had called Elections Canada to report the call, but no such report has made its way to me. The call recorded on Hudson's voicemail and broadcast by the CBC is identical to the Strommer message (above).

9  
ws

on 23

68. Hudson reported receiving the call at 10:12 hours on May 2, 2011, as a voicemail. Hudson confirmed that the CBC recording of the voicemail was his. Hudson said he found the message and would have followed its instructions but for the fact that he had received warnings from reputable community sources, such as a campus wide email from the University of Guelph that the calls were false.
69. Hudson's polling site was at the Laurine Avenue Public School, 50 Laurine Avenue, a block from his house. This is 350 metres from his residence, when measured on Google Maps, whereas the Old Quebec Street Mall is 1.9 kilometres from his residence.

#### **The Witnesses – The Peterborough and Windsor Calls**

70. This group comprise witnesses who complained to Elections Canada of receiving a telephone call falsely claiming to be from Elections Canada, informing them that their polling station had been moved. Their accounts differ to some degree from the accounts above, but relate to the same calling number, 450-760-7746. I have interviewed each of these individuals by phone.
71. On May 11, 2011 I received an email complaint from Diana Pollock of Peterborough, who had just heard an interview on CBC Radio concerning the bogus calls made in Guelph. Pollock reported receiving the same call, from 450-760-7746, as displayed on her call display. The call was as described by the Guelph witnesses, moving her polling station to Old Quebec Street Mall. Pollock said her son had been at the University of Guelph for the 2008 general election and had voted there. She speculated that somehow his Peterborough phone number was associated to his voting in Guelph. This cannot be substantiated at present.
72. Several calls from 450-760-7746 have also been reported from witnesses in Windsor. These differ from the Guelph experience.
73. The first was to the residence of Joe Comartin, Member of Parliament for Windsor-Tecumseh. On May 11, 2011 I contacted Mr. Comartin. He advised that the call to his residence was answered by his wife, Maureen Comartin, around 10:00 hours on May 2, 2011. The calling number as recorded on their call display was 450-760-7746. Joe Comartin said it was a recorded call purporting to be from Elections Canada, moving their polling station to a location Maureen Comartin cannot now recall. Maureen Comartin did not recognize the name of the new polling location as one in the Windsor-Tecumseh electoral district. Joe Comartin said that the same number was recorded by Andrew McAvoy who also received a call (see immediately below).
74. The second and third Windsor calls were made to Andrew McAvoy, a long time volunteer for Mr. Comartin's campaigns. I spoke with Andrew McAvoy by phone on May 12, 2011. He said he received 2 calls on May 2, 2011 on his residence phone. The first was a recorded message of a male voice telling him that his polling location had changed. The recording did not give an alternate location, but instructed him to call Elections Canada.
75. Within minutes McAvoy received a call on his personal cell phone, from the 450 area code. He later wrote the number down from his call display and turned it in to the Comartin campaign office. This call was from a live, male caller. The caller said he was calling from Elections Canada. McAvoy pressed the male for his name. The caller claimed he was not permitted to give his name but that his Elections Canada identification number was "1124". The caller said that McAvoy's poll location had moved to the Alzheimer Society's building. McAvoy described the caller's voice as unprofessional in the way he communicated his message.
76. McAvoy concluded that the caller was unaware that McAvoy, who had lived in the Windsor-Tecumseh electoral district for the 2008 general election, had moved since outside the Windsor-Tecumseh boundaries. Nevertheless the caller knew McAvoy's previous address and his personal cell number.
77. I have since determined from Mark Moore, the Returning Officer in Windsor-Tecumseh that no polling location was moved, and that the Alzheimer Society's building at 2135 Richmond Street, Windsor was not a polling location. I have also determined from Pierrette Lacroix, Chief Human

Resources Officer for Elections Canada, that the Canada the identification number "1124" makes no sense and does not relate to the employee numbering system in place in the Public Service. I have also determined from Helene Levesque, Assistant Director Electoral Financing, that the number is not in Elections Canada's temporary employee database.

### The Liberal Party List

78. As noted above, this list was provided to me at my request from the office of Frank Valeriote, the Liberal Party candidate elected on May 2. I asked for the list after reading media reports that the Liberal campaign in Guelph had received complaints from electors of the bogus calls. I have not called or interviewed the 79 electors who complained of the bogus call to the Liberal campaign office on May 2, 2011 except as follows. Complainants Kilpatrick and Srommer on the Liberal list also complained to Elections Canada, and their account is as recorded above. In addition on June 2, 2011 I phoned Maja Goodyear and Marj Husman from the Liberal list. I also emailed questions to Lane Aspinall the same date. Their accounts vary from those above and from each other. In summary:

Goodyear received several calls over a 4 day period telling her that her polling location had changed from the West End Recreation Centre to Westwood School. Her call display said "Conservative" but she cannot recall a number. The Goodyears (3 electors) went to Westwood School to vote, but were turned away and told to vote at the polling station noted on their VICs - the West End Recreation Centre. They did so and voted. The Goodyears had not displayed a voting intention.

Husman received what appears to have been the standard recorded call in the morning of Election Day, telling her of the move of her poll site to Old Quebec Street mall. Later, between 2:30 and 4:00 p.m. that afternoon, she got a second recorded call, claiming to be from Elections Canada, stating that her polling station was now closed. Her correct polling site was the West End Recreation Centre. The Husmans (2 electors) voted at her correct poll site as they did not believe the calls. The Husmans' voting intention was known by means of a Liberal lawn sign.

Aspinall received what appears to have been the standard recorded call in the morning of Election Day, telling him of the move of his poll site to Old Quebec Street mall. He voted at his assigned polling site as he did not believe that Elections Canada would move polling sites in that fashion. Earlier in the election campaign Aspinall had responded to a phone poll indicating an intention to vote Liberal. He cannot recall which party sponsored the phone poll.

### The Witnesses – Elections Canada Staff

79. A single Returning Officer (RO) is appointed by the CEO for each electoral district. By subsection 24(2) of the *Canada Elections Act*, a RO is responsible for the preparation for and conduct of an election in their electoral district. Anne Budra was the RO for the electoral district of Guelph for the 41<sup>st</sup> general election.

#### Anne Budra

80. On May 5, 2011 I spoke with Anne Budra, the RO, and I interviewed her on May 19, 2011 at Guelph. Amongst her duties, Budra was responsible for locating polling sites to be located near electors who would vote at that site, as notified by Voter Identification Cards (VIC). She described a "poll" as a single grouping of electors, by geographic location, such as a street, with the poll staff consisting of a Deputy Returning Officer (DRO) and one or more poll clerks, with a single ballot box. A polling location or "polling station" would be a single geographic location having from 1 to 15 polls located in it, with 15 polls requiring an arena sized complex. Polling locations with 3 or more polls would also be staffed with a Central Poll Supervisor (CPS), a revision officer and an information officer, in addition to the DRO and one or more poll clerks at each poll (ballot box).

81. Anne Budra described Old Quebec Street Mall as one of her polling locations, primarily for electors living downtown within walking distance. She indicated it was a poor location for electors travelling by vehicle, as parking was very limited, access was delayed by extensive nearby construction and that polling space was limited there as it was a commercial mall. Old Quebec Street Mall had 4 polling stations on Election Day.

WB

AP  
25

82. Anne Budra stated that the matter of the false calls to electors purporting to move electors' polling location to Old Quebec Street Mall was a significant problem with the election in Guelph on May 2, 2011. It threatened to overwhelm the RO's staff ability to respond to it. She advised that her receptionist, Adele McAlpine, who would normally monitor up to 4 incoming phone lines, was unable at times to deal with all the calls from electors about the bogus call, with overflow calls going unanswered. She noted that routine Elections Canada monitoring had advised her that 35% of incoming calls to the Guelph Returning Office went unanswered on May 2.
83. Budra also got feedback from CPS staff concerning the calls. She provided me with 3 reports from CPS referring to the problem of electors attending at their proper polling locations, who had received the bogus calls and who were uneasy about where they were supposed to vote. Some of these electors had gone to Old Quebec Street Mall and were now presenting themselves at their proper polling location. There was no reporting protocol in place for CPS to report back to the RO, but in the 3 instances above the CPS reported on their own initiative.
84. Budra also provided me with the Keir letter, letter referred to above, from individuals of her acquaintance lodging a complaint with Elections Canada, through her, concerning receiving a bogus call from 450-760-7746 moving their polling station to a "busy downtown mall".

#### **Laurie Rotenberg**

85. On May 5, 2011 I spoke with Laurie Rotenberg, the CPS at the Old Quebec Street Mall on Election Day. I also met with Laurie Rotenberg on May 19 at Guelph. Rotenberg had 4 polls at the Old Quebec Street Mall, with each poll responsible for up to 400 or 500 possible electors. In addition to the polls, each with a DRO and one or more poll clerks, he had a revision officer and an information officer on site.
86. Rotenberg reported that as soon as the polls opened at 9:30 a.m. electors began appearing telling his staff that they had received a phone call that their polling location had been moved to the Old Quebec Street site, and they consequently were presenting themselves to vote. They could not vote at the Old Quebec Street site, as each poll can only accept the votes of the individuals assigned to it, or who could prove they reside within that poll's geographic catchment. Consequently the voters appearing at the Old Quebec Street polling location as a result of the bogus phone calls could not vote there. As the problem surfaced quickly, Rotenberg and his information officer were able to organize a system whereby the information officer, who greeted most electors as they came in the polling station, checked their VICs. Poll staff could then tell the misdirected electors they could not vote at Old Quebec Street Mall and had to return to the polling location on their VIC.
87. Rotenberg estimated that over the day between 150 and 200 electors presented themselves at Old Quebec Street on the basis of the bogus phone call and were unable to vote there. Rotenberg noted that the Old Quebec Street site had approximately 1000 votes cast by electors who were properly there, so the misdirected population was over 15%.
88. He observed that many of the misdirected voters responded with anger that a dirty trick had been played. Many were upset. Some electors just stormed out of the polling location, several ripped up their VIC, indicating to Rotenberg an intention not to return to their proper polling location to vote, while others reacted with a determination to go to their proper polling station and vote. He noted a number of misdirected electors were present with walkers, others were dropped off by friends and some with children in strollers, so that the level of inconvenience to electors was significant.

#### **Adele McAlpine**

89. On May 5, 2011 I spoke with Adele McAlpine, receptionist at the RO's office in Guelph on May 2, 2011. I also met with Adele McAlpine on May 20, 2011. She advised that she worked as receptionist at the RO's office from approximately 08:50 hours on May 2, 2011 until past midnight. McAlpine said that as soon as she arrived for work she was inundated with calls from voters who had received the bogus call and who wanted to know more about the change of their poll location, which was the first McAlpine had heard of the matter. She told electors to vote at the address on their VIC, which each elector had received by mail.

90. McAlpine explained that the receptionist arrangement at the RO office involved 4 incoming phone lines. She often could not keep up with the volume of incoming calls concerning the move of electors to the Old Quebec Street Mall.
91. McAlpine said the calls were very disruptive to her own work as a receptionist (calls missed etc.) and she could sense from those calling her that the bogus phone calls were very disturbing to the electors calling her. She reported that the volume of calls from electors tapered off after noon, but picked up considerably again when people began coming home from work and picked up voice mails of the bogus calls.
92. McAlpine said that the electors who phoned the RO office and who had recorded the number of the call, all reported the same number as the source of the call. McAlpine tried the number herself and got the 'not in service' message. She does not now recall the number.

#### **Judy Ward**

93. On May 5, 2011 I spoke with Judy Ward, an employee of the Returning Office for Guelph, who had been a trainer of Deputy Returning Officers (DRO) and Poll Clerks in the lead up to the general election, and who was a supervisor and trouble shooter on Election Day for polling sites on the north side of Guelph. I also met with Judy Ward on May 18, 2011.
94. Ward worked from 08:45 hours on May 2 through to 01:30 hours on May 3, 2011. She advised that her duties took her to 13 or 14 polling stations in Guelph to assist DROs and Poll Clerks as necessary. Ward said her visits to the first 2 poll locations she went to were uneventful, but that when she reached the third she heard from DROs and Poll Clerks about electors who had attended at the polling location complaining of having received a call from Elections Canada advising them their polling location had been moved to the Old Quebec Street Mall. She continued to hear about this from DROs and Poll Clerks until the end of the vote at 9:30 p.m. She observed that many electors were anxious and concerned about the call and unsure if they were at the correct polling station until they were allowed to cast their ballot.

#### **Gillian Buckle**

95. On May 19, 2011 Anne Budra had also provided me with a handwritten report of May 3, 2011 from Gillian Buckle, a CPS responsible for 5 polls located at Mary Phelan Catholic School, 8 Bishop Court, Guelph. I subsequently contacted Buckle by telephone on May 24, 2011. Buckle reported that between 5 and 10 electors at Mary Phelan School reported having received the bogus call. In her written report she noted the phone number given to her by these electors as being the source of the call 450-760-7746 and the number for further assistance given in the message 800-434-4456. Both numbers are consistent with the accounts of the witnesses above. Buckle's information is reported in this Information as an example of additional recipients of the bogus calls, as none of the examples above relate to electors voting at Mary Phelan School.

#### **Keith Walker**

96. On June 2, 2011 I spoke with Keith Walker, Chief of Systems Development and Testing, in Field Readiness, Election Management. Walker explained that Elections Canada maintains a National Register of Electors, which is updated several times each year. Each elector on the list is assigned to an electoral district and a polling division based on their addresses. Electoral districts (or constituencies) are divided into polling divisions, which is a geographic area containing approximately 350 individual electors. There are approximately 200 polling divisions in each electoral district. As well, returning officers have an inventory of possible polling sites at which electors will vote. These sites are confirmed at the time of an electoral event. Within each polling site are one or more polling stations, or individual ballot boxes, corresponding to a polling division.
97. Voter Information Cards (VICs) are mailed to individual electors between day 26 and day 24 of an election, identifying for each elector their polling site and polling station.

WS

an. 11/11

98. Walker confirmed that each polling station would have a list of electors containing the names of those electors assigned to that individual polling station. Only those electors assigned to that polling station, or who could prove they now reside within the geographic boundary of that polling station could vote at that station.

#### Sylvie Jacmain

99. Sylvie Jacmain, Director of Field Services, Elections Canada, has advised me by an email of May 9, 2011 that Elections Canada does not contact electors by telephone to change a polling location. If a change of polling station were necessary, for example by the sudden unavailability of a polling site (building), the change would be done by an RO reprinting and sending new VICs to electors, or, for last minute changes, through media broadcasts, and personally by Elections Canada staff at the closed polling location.

#### Other Investigation

100. On May 4, 2011 I called 1-800-434-4456. I reached a recorded message that this number was not in service.

101. On May 4, 2011 I also conducted Internet checks on phone 450-760-7746. I discovered that area code 450 covers that portion of the province of Quebec around Joliette, southeast of Montreal. The phone number is part of the Bell Canada system. No subscriber information could be determined.

102. Also on May 4, 2011 I contacted Denise Murley, a Security Associate at Bell Canada Corporate Security. She initially asked that I fax details of the nature of my inquiry and the statutory authority under which I was investigating. I did so. I spoke with Denise Murley again on May 9, 2011. She advised me that phone 450-760-7746 was a Virgin Mobile cell phone. Virgin Mobile is a subsidiary of Bell. Bell retains origination and termination records for phone 450-760-7746. These are also known as Call Detail Records (CDRs). These Bell records will disclose each number phoned from 450-760-7746 and, in most cases, each number phoning 450-760-7746, as well as the length of the call. Denise Murley also advised me the phone appeared to have been activated towards the end of April, 2011. I take from this that the Bell records will also disclose when the phone went into and out of service. Denise Murley stated that a production order would be required to obtain this information.

103. Denise Murley also indicated that the phone was a pay-as-you-go cell phone. In other words there is no phone plan attached to it, nor are costs billed to a customer, rather a customer buys time from a retail outlet and adds it to his phone. For this reason she said Bell does not have a subscriber address. She indicated the phone was obtained in the name "Pierre Poutine".

104. I contacted Denise Murley at Bell Canada Corporate Security again on June 6, 2011. She confirmed they would be able to produce CDRs for the phone. She confirmed that the cell phone ought to have a SIM chip (SIM stands for Subscriber Identity Module) which amounts to a serial number for the phone. It may be possible to assess whether this chip has been moved into other telecom equipment to make calls, depending upon the equipment used.

105. Denise Murley confirmed again that Virgin Mobile is a Bell subsidiary. She cannot confirm that Bell will have sales records associated to the phone. This will depend on whether the phone was purchased directly from a Bell retail outlet, or from a retailer provider who sells phones from a variety of suppliers, such as Wireless Wave. She expects that Bell would retain customer sales records in the former example, whereas in the latter Bell would likely only be able to indicate the retailer identification. In the latter case a further production order would be needed to obtain any possible customer sales records.

106. It appears to me that the name "Pierre Poutine" is an alias adopted by a person or persons to obscure the actual user of the cell phone. I believe that the origination and termination or CDR records for phone 450-760-7746 will be useful to this investigation for several reasons. They will be able to confirm the evidence of the witnesses above as to the source of their calls. The records will also provide a number of other phone numbers which I believe were also called with the same

*[Signature]*

*[Signature]*

*[Signature]*

false message moving electors polling stations to the Old Quebec Street Mall, and finally the records may also indicate other numbers called by or calling to 450-760-7746 as part of the planning of this scheme. These additional numbers will provide investigative avenues to follow to determine the user of 450-760-7746. Similarly I believe that the sales records associated to the phone would provide investigative avenues to follow to determine the user of 450-760-7746.

107. On May 18, 2011 Simon Rowland emailed the Commissioner's Office offering assistance in this matter. Rowland is a former New Democratic Party (NDP) Candidate in the general election of 2000, and is now the Chief Executive Officer (CEO) of Direct Leap Innovations and Direct Leap Technologies, Inc. (Direct Leap). Direct Leap was involved in the 2011 general election by providing telephone services to the NDP. Direct Leap provides phone services to a number of non-profit organizations. Direct Leap and Rowland are also involved in technological developments in the area of call center systems, telemessaging and telecom product development and network engineering. Descriptions of these are publically available on the Internet at [www.simonrowland.com](http://www.simonrowland.com) and [www.directleap.com/about-founder.com](http://www.directleap.com/about-founder.com). Rowland is both a partisan participant in the political process and also a subject matter expert. Mr. Rowland was familiar with the public complaints from the media coverage of these Guelph calls.

108. Rowland has been out of Canada since the election. I subsequently received a further email from Rowland on May 24, 2011 and I spoke with him by phone on May 24 and again on June 7, 2011. In his emails and in our conversations Rowland stated that phone companies maintain Call Detail Records (CDRs) for billing purposes, including routing information, such as when a phone call passes from one carrier to another. He is of the view that following this record backwards could lead to the exact originator of the call in question.

109. A phone company providing local service to an elector, or to number 450-760-7746, will have a CDR of calls entering or leaving their network, as well as records of call length, start and termination times and phone numbers contacted. The CDR will also include caller ID data including the originating phone carrier, if not Bell. These other phone carriers could be in series, requiring further Production Orders, but ultimately should lead to an original number and customer, as carriers exist to be paid for their services. In particular Rowland says the CDR should include 2 other data fields which store the calling number – the caller ID displayed by the calling number, which is likely 450-760-7746; and also the 'true' calling number, known as the Automatic Number Identifier or ANI. An ANI, for example, is sometimes used to trace 911 calls whose source does not register on a 911 system.

110. Rowland said that the use of an automated recording to call potentially several hundred individuals in a short period on May 2 indicated to him that the Virgin cell phone was likely obtained to forge a caller ID; using the cell phone number. In this scenario the actual calls were placed through a Voice Broadcasting Vendor, that is, a commercial call center operation. The forging of the caller ID would take place by using the SIM Chip from the cell phone in specialized telecom equipment so that the call appears on the recipient's call display as from 450-760-7746, when in fact it is from a call center phone bank.

111. In respect of records Rowland indicated the following records likely exist and will be useful in determining the ultimate caller. These coincide with the information that Denise Murley at Bell Corporate Security advises may be retrievable with a Production Order:

Cell phone Call Display Records, including call origination and termination, call length, caller ID, ANI, and carrier routing information;

The phone has to have been purchased at a retail outlet, creating a sales record;

If the calls were automated it is possible to buy a phone, take the SIM chip out and insert the chip in equipment connecting to a robodialing system. If this occurred a list of devices used on the subscriber's phone account should exist with the CDRs..

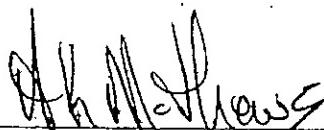
112. I appreciate that Mr. Rowland has a political background, but he also is technologically knowledgeable in call centre operations. His information is relied upon only insofar as it is consistent with data which Denise Murley of Bell Corporate Security has indicated to me is or could be available in a cell phone record kept by Bell.

*WS aw*

## CONCLUSION AND REQUEST

113. Based on the information described above, I have reasonable grounds to believe and do believe that:
- i. The offences described above have been committed;
  - ii. the documents or data sought will afford evidence respecting the commission of these offences;
  - iii. that Bell Canada has possession or control of the documents or data sought;
114. In order to ensure sufficient time for locating and certifying the documents sought, it is requested that the time period to produce the DOCUMENTS OR DATA TO BE PRODUCED be 60 days from the date of the service of the Production Order being applied for.
115. I request that the documents or data be produced to Allan Mathews, a Public Officer appointed or designated to administer or enforce the Act, and forwarded by registered mail to the attention of Allan Mathews at the Office of the Commissioner of Canada Elections 257 Slater Street Ottawa, Ontario K1A 0M6 by no later than 60 days from the date of the service of the order applied for.
116. I request the documents or data be produced be in hardcopy form.

WHEREFORE the Informant requests that a Production Order, may be granted according to the terms herein proposed.

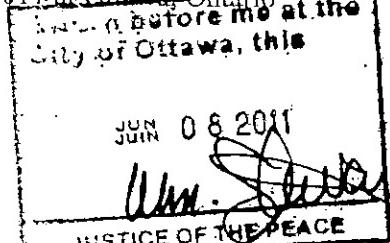


The Informant

PAR CONSÉQUENT, le dénonciateur demande qu'une ordonnance de communications soit accordée sujet aux conditions proposées ci-haut.

Le dénonciateur

Sworn before me this 8<sup>th</sup> day of June  
A.D. 2011 at Ottawa, Ontario  
~~in my presence and before me at the~~  
~~City of Ottawa, this~~



Justice of the Peace in and for the Province of Ontario

Assermenté devant moi-même ce \_\_\_\_ jour \_\_\_\_ en l'an de grâce 2011 à Ottawa, Ontario

Juge de paix dans et pour la province de l'Ontario

AKM  
(32)